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TO ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE IMMEDIATE

RUEHUJA/AMEMBASSY ABUJA IMMEDIATE 8252
RUEHAR/AMEMBASSY ACCRA IMMEDIATE 3788
RUEHBP/AMEMBASSY BAMAKO IMMEDIATE 0534
RUEHBR/AMEMBASSY BRASILIA IMMEDIATE 2329
RUEHDK/AMEMBASSY DAKAR IMMEDIATE 2469
RUEHLGB/AMEMBASSY KIGALI IMMEDIATE 7086
RUEHLO/AMEMBASSY LONDON IMMEDIATE 3595
RUEHLS/AMEMBASSY LUSAKA IMMEDIATE 7698
RUEHME/AMEMBASSY MEXICO IMMEDIATE 0530
RUEHMO/AMEMBASSY MOSCOW IMMEDIATE 9543
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RUEHRB/AMEMBASSY RABAT IMMEDIATE 6899
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UNCLAS SECTION 01 OF 04 STATE 039222

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SUBJECT: GUIDANCE REGARDING USG PARTICIPATION IN THE
DURBAN REVIEW CONFERENCE

¶1. This is an action request for Geneva, The Hague, Moscow, Jerusalem, London, Nairobi, Accra, Kigali, Lusaka, Rabat, Bamako, Abuja, Dakar, Mexico City, Brasilia and Rome. Please see paragraphs 2, 3 and 4.

¶2. The draft review conference outcome document for the Durban Review Conference does not go far enough to address our redlines, as expressed in our statement on February

¶27. Mission Geneva is instructed not to send any representative to the Durban Review Conference (April 20-24) to sit behind our placard. The Department requests that the Mission confine its formal activities to sending a notetaker to observe the proceedings from the back of the hall. Mission may also observe side events at its discretion.

¶3. Embassy Hague, Embassy Moscow and ConGen Jerusalem are requested to convey our sincere thanks to host governments and the Palestinian Authority for their strong efforts to find compromise language and should express our regret that we will be unable to join the review conference. Please also convey the points in paragraph 4 below. Department requests Mission Geneva report any other delegations that should be commended in capitals for helping to further USG objectives during the negotiations on the draft outcome document.

¶4. Embassies London, Nairobi, Accra, Kigali, Lusaka, Rabat, Bamako, Abuja, Dakar, Mexico City, Brasilia and Rome are requested to convey to host governments U.S. appreciation for the importance of this issue to their governments and people; we share their deep and abiding commitment to work with the UN and fellow members states to eliminate racial discrimination wherever it occurs. Please also convey our appreciation for the efforts host governments made to improve the language of the document and find a compromise. Posts should note our regret that we will be unable to join the review conference.

15. As needed, Mission Geneva and all Posts are authorized to draw from the following press statement and press guidance regarding the United States' non-participation in the Durban conference.

BEGIN STATEMENT

The United States is profoundly committed to ending racism and racial discrimination. This abiding commitment to the fight against racism and all forms of discrimination arises from the most painful pages of our history, and the most cherished values of our nation. We believe that people of every color and creed are born free and equal in dignity and rights and that equality and nondiscrimination are fundamental principles of international law.

The United States will work with all people and nations to build greater resolve and enduring political will to halt racism and discrimination wherever it occurs.

The United States is deeply grateful to the many country delegations, including Russia as chair, and senior United Nations officials who have worked steadfastly to improve the review conference outcome document and to re-focus the Durban Review Conference squarely on racism and discrimination. We applaud the progress that has been made. The current document is significantly improved compared with prior versions, which is an accomplishment for all who aim to build a world free of every form of discrimination.

However, the text still contains language that reaffirms in toto the Durban Declaration and Programme of Action

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(DDPA) from 2001, which the United States has long said it is unable to support. Its inclusion in the review conference document has the same effect as inserting that original text into the current document and re-adopting it. The DDPA singles out one particular conflict and prejudices key issues that can only be resolved in negotiations between the Israelis and Palestinians. The United States also has serious concerns with relatively new additions to the text regarding "incitement," that run counter to the U.S. commitment to unfettered free speech.

Unfortunately, it now seems certain these remaining concerns will not be addressed in the document to be adopted by the conference next week. Therefore, with regret, the United States will not join the review conference. The United States remains fully committed to upholding the human rights of all individuals and to fighting racial discrimination of every form in every context. We will continue to work assiduously in all United Nations fora and with all nations to combat bigotry and end discrimination.

END STATEMENT

BEGIN Q & A

Q: Why is the U.S. not participating in the Durban Review Conference?

- In February, the Administration sent an experienced delegation to Geneva to explore whether the preparatory negotiations for the Durban Review Conference could be moved onto a productive track. After a period of intense discussions in Geneva, Washington, and in capitals, the United States determined that the then-draft document was profoundly flawed and did not represent a genuine, constructive effort to combat racism, discrimination, and other forms of intolerance.

- In subsequent weeks, significant improvements

were made to the draft document. Unfortunately, it still does not meet one of our clearly expressed concerns as the text continues to reaffirm in toto the Durban Declaration and Programme of Action (DDPA). The United States also has serious concerns with relatively new additions to the text regarding "incitement," that run counter to the U.S. commitment to free speech.

- As a result, the United States will not be able to participate in the Conference.

Q: The Durban Review is an international conference on fighting racism. Doesn't your decision to not participate contradict the Obama Administration's commitments to fighting racism and working in international fora?

- As President Obama made clear when he spoke to this issue in his press conference on April 19 at the conclusion of the Summit of the Americas, and as the State Department statement also underscores, , the United States is profoundly committed to ending racism and racial discrimination. This abiding commitment to the fight against racism and all forms of discrimination arises from the most painful pages of our history, and the most cherished values of our nation. We believe that people of every color and creed are born free and equal in dignity and rights and that equality and nondiscrimination are fundamental principles of human rights law and international humanitarian law.

- Since the U.S. delegation returned in February, we have monitored the negotiations in Geneva closely, and we made it clear that we were open to participating in a Conference based upon an outcome document that met our concerns. While significant improvements were made, the text still reaffirms in toto the Durban Declaration and Programme of Action (DDPA) from 2001, which the United

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States has long said it is unable to support. Its inclusion in the review conference document has the same effect as inserting that original text into the current document and re-adopting it. The United States also has serious concerns with relatively new additions to the text regarding "incitement," that run counter to the U.S. commitment to free speech.

- This decision in no way diminishes the U.S. determination to fight against racism and bigotry at home and abroad, and it in no way diminishes the U.S. commitment to working together in all United Nations fora and with all nations to combat bigotry and end discrimination with our international partners and friends to unite around a common vision of a world free of discrimination. The United States remains fully committed to upholding the human rights of all individuals and to fighting racial discrimination of every form in every context.

Q: You refer to the draft outcome document as not meeting U.S. concerns. How? What are your concerns?

- After our delegation returned from Geneva in February, we laid out a series of six clear concerns that would have to be met for the U.S. government to consider participating in any resultant Conference:

- ¶1. A Review Conference document that takes a constructive approach to tackling the challenges of racism and discrimination.
- ¶2. A shortened text.
- ¶3. A document that does not single out any one country or conflict;
- ¶4. A document that does not reaffirm in toto the flawed 2001 Durban Declaration and Programme of Action (DDPA);

15. A document that does not embrace the troubling concept of "defamation of religion"; and,

16. A document that does not go further than the 2001 DDPA on the issue of reparations for slavery.

Q: After the U.S. detailed its concerns in February, the document improved substantially. All of the language on the Middle East has been removed, which was your top concern. Why are you still not participating?

- The United States is deeply grateful to the many country delegations, including Russia as chair, and senior United Nations officials, notably Secretary-General Ban and UN High Commissioner for Human Rights Pillay, who have worked steadfastly to improve the review conference outcome document and to re-focus the Durban Review Conference squarely on racism and discrimination. We applaud the progress that has been made.

- However, the text still contains language that reaffirms in toto the Durban Declaration and Programme of Action (DDPA) from 2001, which the United States has long said it is unable to support. Its inclusion in the review conference document has the same effect as inserting that original text into the current document and re-adopting it. The DDPA singles out one particular conflict and prejudges key issues that can only be resolved in negotiations between the Israelis and Palestinians. The United States also has serious concerns with relatively new additions to the text regarding "incitement," that run counter to the U.S. commitment to unfettered free speech.

If Asked:

Q: The delegation that you sent in February engaged for only a week. If the U.S. had engaged fully, you might have achieved your concerns. Why didn't you formally enter the negotiations?

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- The United States sent a distinguished and experienced delegation to Geneva in February to explore whether the preparatory negotiations for the Durban Review Conference could be moved onto a productive track. After their discussions in Geneva, and further discussions and consultations with others in capitals and in Washington, we stated that if our concerns were met in a subsequent document, we would enter negotiations and participate in the Conference.

- Since February, we have monitored closely the developments in the negotiations in Geneva, and we continually made it clear that we would enter the negotiations and participate in a Conference if our concerns were addressed. However, while significant improvements were made to the text, the document never fully met our concerns, so we did not join the negotiations.

Q: Will the U.S. be represented in any manner at the Conference?

- The U.S. Mission in Geneva will send a staff member to the Conference as a notetaker.

END Q & A
CLINTON